

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

DIA M. CATANIA,

Case No.: 20-70768-las
Chapter 7

Debtor.

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JOINT STATEMENT OF FACTS

Allan B. Mendelsohn, trustee (the “Trustee”), by and through his attorneys, Rosen & Kantrow, PLLC, and Dia M. Catania, the debtor (the “Debtor”), by and through her attorneys, Phillips, Artura & Cox, respectfully submit this as and for their Joint Statement of Facts, and state as follows:

1. Debtor filed a voluntary petition for relief from her creditors pursuant to chapter 7 of title 11 of the United States Code (the “Bankruptcy Code”) on February 4, 2020 (the “Petition Date”).
2. Allan B. Mendelsohn was appointed interim Trustee and thereafter did duly qualify as the permanent Trustee.
3. The Debtor purchased a home at 214 Whittier Drive, Mastic Beach, New York on July 19, 2016 and moved in with her then boyfriend, Frank Brusack, Jr. (“Brusack”).
4. Soon after the purchase the Debtor and Brusack had personal issues and they needed to separate. As the Debtor could not afford the home on her own and as she needed a home for her dogs, she agreed to transfer the house to Brusack. Brusack in turn agreed to pay off the mortgage obligation of the Debtor’s which obligation was substantially less than the value of the home.
5. As fully disclosed in the Debtor’s schedules, on January 31, 2019, Debtor transferred the home by deed to her now estranged boyfriend Brusack for inadequate consideration.
6. The Debtor now lives with her mother.
7. Debtor claimed exemptions to her pursuant to section 522 of the Bankruptcy Code.
8. Debtor disclosed, in her answer to question 35 on Schedule A/B of her bankruptcy petition, a “constructive trust – transfer of 214 Whittier Drive, Mastic Beach, New York on 1/31/2019 without consideration as “Gift of Equity” in the amount of \$51,309.00.
9. Debtor scheduled, in her Schedule C of her bankruptcy petition, an exemption in constructive trust – transfer of 214 Whittier Drive, Mastic Beach, New York on 1/31/2019 without consideration as “Gift of Equity” in the amount of \$51,309.00. The Debtor claimed the “wildcard” exemption in the amount of \$13,900.00 pursuant to 11 U.S.C. §522(d)(5).
10. On April 23, 2020, the Trustee interposed a timely objection to the Debtor’s claim of an exemption in constructive trust – transfer of 214 Whittier Drive, Mastic Beach, New York on 1/31/2019 without consideration as “Gift of Equity” in the amount of \$51,309.00.
11. On May 12, 2020, the Debtor interposed a timely response to the Trustee’s objection.

12. By Order dated May 20, 2020, the Court directed the parties to submit a Joint Statement of Facts by not later than June 18, 2020.

Dated: Huntington, New York
June 16, 2020

Rosen & Kantrow, PLLC
Attorneys for the Trustee

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Dated: Lindenhurst, New York
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